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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MGM MIRAGE OPERATIONS, INC., a
Nevada corporation,

Plaintiff,

v.

DAMIR KRUZICEVIC, an individual; and
CHEAPROOMS.COM, an unknown business
entity,

Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

- (1) Cybersquatting
under 15 U.S.C. § 1125(d)
- (2) Trademark Infringement
under 15 U.S.C. § 1114
- (3) Unfair Competition
under 15 U.S.C. § 1125(a)
- (4) Trademark Dilution
under 15 U.S.C. § 1125(c)
- (5) State Trademark Infringement
under N.R.S. § 600.420
- (6) State Trademark Dilution
under N.R.S. § 600.435
- (7) Common Law Trademark Infringement
- (8) Deceptive Trade Practices
under N.R.S. § 598.0903, et seq.
- (9) Intentional Interference with
Prospective Economic Advantage

For its complaint, MGM MIRAGE Operations, Inc. alleges the following.

NATURE OF THE CASE

This is an action for cybersquatting, trademark infringement, unfair competition, and trademark dilution under federal statutes, with pendent state and/or common law claims for trademark infringement, trademark dilution, deceptive trade practices, and intentional interference with prospective economic advantage. Plaintiff seeks damages, attorneys' fees, costs, and preliminary and permanent injunctive relief.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338(a). This Court has supplemental jurisdiction over Plaintiff's state and common law claims pursuant to 28 U.S.C. § 1367(a).

2. This Court has personal jurisdiction over Defendants based upon the following: (a) Defendants operate a website on the Internet that is accessible to residents of the State of Nevada; (b) Defendants' website is interactive in that it seeks to obtain information from web users; (c) Defendants' website is interactive in that it allows web users to book travel and hotel rooms; and (d) Defendants have committed tortious acts that Defendants knew or should have known would cause injury to a Nevada resident in the State of Nevada.

3. Venue is proper in the United States District Court for the District of Nevada under 28 U.S.C. §§ 1391(b) and 1391(c). Venue lies in the unofficial Southern division of this Court.

PARTIES

4. Plaintiff MGM MIRAGE Operations, Inc. is a Nevada corporation with its principal place of business in Las Vegas, Nevada. Plaintiff has been authorized to protect and enforce the trademarks owned by Mandalay Resort Group (the "Trademark Owner").

5. Upon information and belief, Damir Kruzicevic is an individual residing and doing business in Split, Croatia.

6. Upon information and belief, CheapRooms.com is an unknown business entity doing business in Split, Croatia.

1 7. Upon information and belief, Damir Kruzicevic and CheapRooms.com are each the
2 alter ego of the other, and are the officer, agent, servant, representative, and/or employee of the
3 other, acting in participation with the other, having authority or apparent authority to bind the
4 other.

5 **ALLEGATIONS COMMON TO ALL COUNTS**

6 8. “Mandalay Bay” is a famous destination resort hotel casino located on the world-
7 famous “Las Vegas Strip” in Las Vegas, Nevada. Mandalay Resort Group owns and, through its
8 subsidiary company, operates the “Mandalay Bay.”

9 9. Since “Mandalay Bay” opened in 1999, Mandalay Resort Group has continuously
10 used its marks in connection with advertising and promoting its property in the United States and
11 around the world.

12 10. The MANDALAY BAY name and logo are service marks that are owned by
13 Mandalay Resort Group and are registered on the Principal Register of the United States Patent
14 and Trademark Office, including, among others:

- 15 a. MANDALAY BAY: Registration No. 2,275,016 for casino services; and
16 b. MANDALAY BAY RESORT AND CASINO: Registration No. 2,275,015
17 for hotel and restaurant services

18 (collectively “MANDALAY BAY Marks”). These federal trademark registrations have not been
19 abandoned, canceled, or revoked. Moreover, these federal trademark registrations have become
20 incontestable through the filing of Section 8 and 15 affidavits in the Patent and Trademark Office.

21 11. Mandalay Resort Group has spent substantial sums of money to advertise and
22 promote the MANDALAY BAY Marks in print, broadcast media, and on the Internet through the
23 “Mandalay Bay” website accessible throughout the United States and around the world at
24 <mandalaybay.com>, among others. A true and accurate copy of the website is attached hereto as
25 Exhibit 1, and is incorporated by this reference. In addition, Mandalay Resort Group has made
26 extensive use of the MANDALAY BAY Marks on, among other things, signage, wearing apparel,
27 souvenirs and promotional materials.

1 12. Based on its federal trademark registrations and extensive use, Mandalay Resort
2 Group owns the exclusive right to use the MANDALAY BAY Marks in connection with hotel,
3 casino and related services.

4 13. The MANDALAY BAY Marks are distinctive and famous in the United States and
5 around the world for resort hotel casino services.

6 14. On or about March 25, 2002, Defendants registered the <mandlaybay.com>
7 Internet domain name with Fabulous.com Pty Ltd., a domain name registrar. Defendants'
8 <mandlaybay.com> domain name contains a common typographical misspelling of Plaintiff's
9 famous trademarks and the domain name where its website is located--<mandalaybay.com>.

10 15. Some time after registration, Defendants redirected the <mandlaybay.com> domain
11 name to their "CheapRooms.com" website, a travel booking website owned by Defendants,
12 providing, among other services, hotel reservations, and directing consumers to Las Vegas hotels
13 and numerous other websites offering services in direct competition with Plaintiff. A true and
14 accurate copy of the home page of the "CheapRooms.com" website is attached hereto as Exhibit 2,
15 and is incorporated herein by this reference.

16 16. Defendants have not registered and used the <mandlaybay.com> domain name in
17 good faith.

18 17. By registering and using a domain name containing a common typographical
19 misspelling of the MANDALAY BAY Marks, Defendants were and are attempting to trade on the
20 goodwill of the Trademark Owner.

21 18. By registering and using a domain name containing a common typographical
22 misspelling of MANDALAY BAY Marks, Defendants were and are attempting to create an
23 association between the <mandlaybay.com> domain and the Trademark Owner.

24 19. By registering and using the <mandlaybay.com> domain name, Defendants were
25 and are attempting to frustrate or divert Internet traffic intended for the Trademark Owner.
26
27

COUNT I

(Cybersquatting Under
The Lanham Act, 15 U.S.C. § 1125(d))

20. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

21. Defendants have registered, trafficked in, and/or used a domain name that is confusingly similar to and/or dilutive of the MANDALAY BAY Marks, which were distinctive and/or famous at the time Defendants registered the <mandlaybay.com> domain name.

22. Upon information and belief, Defendants have or have had a bad faith intent to profit from the MANDALAY BAY Marks.

23. As a direct and proximate result of such conduct, Plaintiff and the Trademark Owner have suffered, and will continue to suffer, monetary loss and irreparable injury to their business, reputation, and goodwill.

COUNT II

(Trademark Infringement Under
The Lanham Act, 15 U.S.C. § 1114)

24. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

25. Defendants have used and/or are using in commerce the <mandlaybay.com> domain name, which contains a typographical misspelling of the MANDALAY BAY Marks, and, thus, Defendants' domain name is confusingly similar to the Trademark Owner's trademarks.

26. Defendants' use in commerce of the MANDALAY BAY Marks and/or a mark confusingly similar to the MANDALAY BAY Marks in the <mandlaybay.com> Internet domain name and Defendants' directing the same to their own online travel and hotel room reservation booking website constitutes a reproduction, copying, counterfeiting, and colorable imitation of the Trademark Owner's trademarks in a manner that is likely to cause confusion or mistake or that is likely to deceive consumers.

27. By using the MANDALAY BAY Marks and/or a mark confusingly similar to the MANDALAY BAY Marks with the knowledge that the Trademark Owner owns and has used,

1 and continues to use, its trademarks in Las Vegas, Nevada, across the United States, and around
2 the world, Defendants have intended to cause confusion, cause mistake, or deceive consumers.

3 28. Defendants are using a mark that is the same and/or confusingly similar to the
4 MANDALAY BAY Marks in connection with the sale, offering for sale, or advertising of services
5 in a manner that is likely to cause confusion or mistake, or to deceive consumers as to an
6 affiliation, connection, or association with the Trademark Owner, or as to the origin, sponsorship,
7 or approval of Defendants' services or commercial activities by Plaintiff and the Trademark
8 Owner.

9 29. Defendants are also using a mark that is the same and/or confusingly similar to the
10 MANDALAY BAY Marks in the <mandlaybay.com> domain name to cause initial interest
11 confusion and to divert Internet users away from the Trademark Owner's website.

12 30. Defendants' use of the MANDALAY BAY Marks and/or a mark confusingly
13 similar to the MANDALAY BAY Marks has created a likelihood of confusion among consumers
14 who may falsely believe that Defendants' business or the online travel and hotel room reservation
15 booking website, to which the <mandlaybay.com> domain name is redirected, is associated with
16 the "Mandalay Bay" resort hotel casino or that Plaintiff and the Trademark Owner sponsors or
17 approves of Defendants' services or commercial activities.

18 31. As a direct and proximate result of Defendants' infringement, Plaintiff and the
19 Trademark Owner have suffered, and will continue to suffer, monetary loss and irreparable injury
20 to their business, reputation, and goodwill.

21 **COUNT III**

22 (Unfair Competition Under
The Lanham Act, 15 U.S.C. § 1125(a))

23 32. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
24 herein.

25 33. Defendants' use in commerce of a mark that is the same and/or confusingly similar
26 to the MANDALAY BAY Marks in connection with Defendants' <mandlaybay.com> domain
27 name constitutes a false designation of origin and/or a false or misleading description or

1 representation of fact, which is likely to cause confusion, cause mistake, or deceive as to
2 affiliation, connection, or association with the Trademark Owner, or as to the origin, sponsorship,
3 or approval of Defendants' services or commercial activities by the Trademark Owner.

4 34. Defendants' use in commerce of the MANDALAY BAY Marks and/or a mark
5 confusingly similar thereto with the knowledge that the Trademark Owner owns and has used, and
6 continues to use, its trademarks, constitutes intentional conduct by Defendants to make false
7 designations of origin and false descriptions about Defendants' services and commercial activities.

8 35. As a direct and proximate result of such unfair competition, Plaintiff and the
9 Trademark Owner have suffered, and will continue to suffer, monetary loss and irreparable injury
10 to their business, reputation, and goodwill.

11 **COUNT IV**

12 (Trademark Dilution Under
The Federal Trademark Dilution Act, 15 U.S.C. § 1125(c))

13 36. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
14 herein.

15 37. The MANDALAY BAY Marks are inherently distinctive. Through their adoption
16 and consistent and extensive use, the MANDALAY BAY Marks have acquired fame.

17 38. Defendants began using a mark that is the same and/or nearly identical to the
18 MANDALAY BAY Marks in connection with Defendants' <mandalaybay.com> Internet domain
19 name after the MANDALAY BAY Marks became famous.

20 39. Defendants' use of the MANDALAY BAY Marks and/or a mark confusingly
21 similar thereto has and will cause dilution of the distinctive quality of the Trademark Owner's
22 trademarks and will otherwise cause irreparable injury to its business, reputation, and goodwill.

23 40. Upon information and belief, Defendants' use of the MANDALAY BAY Marks
24 and/or a mark confusingly similar thereto was willful in nature, in that Defendants willfully
25 intended to trade on the reputation of the Trademark Owner or to cause dilution of the
26 MANDALAY BAY Marks.

27

(State Trademark Infringement
Under N.R.S. 600.420)

43. Defendants have used and/or are using the <mandalaybay.com> domain name, which contains the MANDALAY BAY Marks, without Plaintiff's or the Trademark Owner's consent.

45. By using the MANDALAY BAY Marks and/or a mark confusingly similar to the MANDALAY BAY Marks with the knowledge that the Trademark Owner owns and has used, and continues to use, its trademarks in Las Vegas, Nevada, Defendants have intended to cause confusion, cause mistake, or deceive consumers.

46. Defendants are using a mark that is the same and/or confusingly similar to the MANDALAY BAY Marks in connection with the sale, offering for sale, or advertising of services in a manner that is likely to cause confusion or mistake, or to deceive consumers as to an affiliation, connection, or association with the Trademark Owner, or as to the origin, sponsorship, or approval of Defendants' services or commercial activities by Plaintiff and the Trademark Owner.

48. Defendants' use of the MANDALAY BAY Marks and/or a mark confusingly similar to the MANDALAY BAY Marks has created a likelihood of confusion among consumers who may falsely believe that Defendants' business or the online travel and hotel room reservation booking website to which Defendants redirected the <mandalaybay.com> domain name is associated with the "Mandalay Bay" resort hotel casino or that the Plaintiff and the Trademark Owner sponsor or approve of Defendants' services or commercial activities.

49. As a direct and proximate result of Defendants' infringement, Plaintiff and the Trademark Owner have suffered, and will continue to suffer, monetary loss and irreparable injury to their business, reputation, and goodwill.

(State Trademark Dilution Under
N.R.S. § 600.435)

50. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

51. The MANDALAY BAY Marks are inherently distinctive. Through their adoption and consistent and extensive use, the MANDALAY BAY Marks have acquired fame in the State of Nevada.

52. Defendants began using a mark that is the same and/or confusingly similar to the MANDALAY BAY Marks in connection with Defendants' services, associated online travel and hotel room reservation booking website, and Internet domain name after the MANDALAY BAY Marks became famous in the State of Nevada.

53. Defendants' use of the MANDALAY BAY Marks and/or marks confusingly similar thereto has and will cause dilution of the distinctive quality of the Trademark Owner's trademarks and will otherwise cause irreparable injury to the Trademark Owner's business, reputation, and goodwill.

68. As a direct and proximate result of Defendants' intentional interference with the Trademark Owner's prospective economic advantage, Plaintiff and the Trademark Owner have suffered, and will continue to suffer, monetary damages and irreparable injury.

69. Based on the intentional, willful and malicious nature of Defendants' actions, Plaintiff and the Trademark Owner are entitled to recover monetary damages, exemplary or punitive damages and reasonable attorneys' fees, and costs incurred in connection with this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that the Court grant the following relief:

A. A preliminary and permanent injunction prohibiting Defendants, Defendants' respective officers, agents, servants, employees and/or all persons acting in concert or participation with Defendants, from: (1) using the MANDALAY BAY Marks or confusingly similar variations thereof, including, but not limited to, typographical misspellings of MANDALAY BAY Marks such as "mandlaybay," alone or in combination with any other letters, words, letter strings, phrases or designs, in commerce or in connection with any business or for any purpose whatsoever (including, but not limited to, on websites, in domain names, in hidden text and metatags); and (2) registering or trafficking in any domain names containing the MANDALAY BAY Marks or confusingly similar variations thereof, including, but not limited to, typographical misspellings of MANDALAY BAY Marks such as "mandlaybay," alone or in combination with any other letters, words, phrases or designs.

B. A preliminary and permanent injunction requiring the current domain name registrar to transfer the <mandlaybay.com> domain name to Plaintiff;

C. An award of compensatory, consequential, statutory, exemplary, and/or punitive damages to Plaintiff in an amount to be determined at trial;

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1 D. An award of interest, costs and attorneys' fees incurred by Plaintiff in prosecuting
2 this action; and

3 E. All other relief to which Plaintiff is entitled.

4 DATED: June 11, 2008.

5 LEWIS AND ROCA LLP

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EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MGM MIRAGE OPERATIONS, INC.


v.

DAMIR KRUZICEVIC

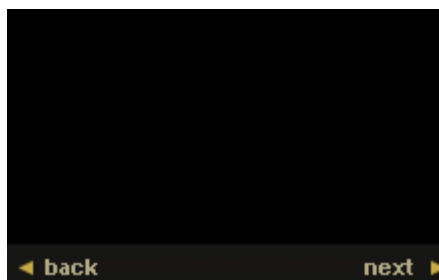
COMPLAINT

EXHIBIT 1

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EXHIBIT 2

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MGM MIRAGE OPERATIONS, INC.

v.

DAMIR KRUZICEVIC

COMPLAINT

EXHIBIT 2

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